



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Inventor(s): Tetsuya ISHII

Pr. Art Unit: 2872

Appln. No.: 09/672,455

Pr. Examiner: A. Chang

Filed: September 29, 2000

For: DIFFRACTIVE OPTICAL ELEMENT

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Assistant Commissioner of Patents
Washington, DC 20231

Sir:

In response to the Restriction Requirement of February 20, 2001, Applicants hereby provisionally elect Species A, with traverse. Claims 35, 36 and 39-42 are directed to the elected species.

Applicants respectfully request withdrawal of the Election of Species Requirement. No unduly extensive or burdensome search would be required to examine the various claims of the noted Species in the same application. MPEP §803 states:

"If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits even though it includes claims to distinct or independent inventions." (Emphasis added)

In the present case, the search for all pending claims together would not be burdensome.

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J. Muller
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RESPONSE TO RESTRICTION REQUIREMENT
U.S. Appln. No. 09/672,455

Moreover, from the standpoint of costs to the Applicants involved in filing, issuance and maintenance fees relating to separate applications if the present Election Requirement is maintained, it is clear that there is substantially more burden on Applicants by imposing the present Requirement than on the Patent Office if the Requirement were withdrawn.

In addition, it is noted that to require the claims of the various Species to issue in separate patents would result in inconvenience to the public by necessitating reference to more than one patent during searching, to review closely related subject matter.

Therefore, withdrawal of the Election Requirement is warranted.

Reconsideration and withdrawal of Election Requirement are respectfully requested.

Respectfully submitted,


James E. Ledbetter
Registration No. 28,732

Date: June 19, 2001

JEL/ejw

ATTORNEY DOCKET NO. JEL30290A

STEVENS, DAVIS, MILLER & MOSHER, L.L.P.
1615 L Street, NW, Suite 850
P.O. Box 34387
Washington, DC 20043-4387
Telephone: (202) 785-0100
Facsimile: (202) 408-5200

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